
HOUSE BILL 2017

State of Washington

67th Legislature

2022 Regular Session

By Representatives Davis and Simmons

1 AN ACT Relating to addressing housing concerns for individuals
2 impacted by the criminal legal system; amending RCW 59.18.257;
3 reenacting and amending RCW 59.18.030; adding a new section to
4 chapter 59.18 RCW; and creating new sections.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that having a
7 conviction history or having been incarcerated are significant risk
8 factors for housing instability and homelessness. Formerly
9 incarcerated individuals are almost 10 times more likely to
10 experience homelessness than the rest of the population, and much
11 more likely to experience housing insecurity in general. The
12 legislature recognizes that formerly incarcerated people and their
13 families report being denied housing due to a criminal conviction.
14 These barriers to housing have detrimental economic, emotional, and
15 psychological impacts, including separating families when one member
16 of a household is not permitted to live in the home.

17 (2) The legislature finds that criminal record screening for
18 rental housing applicants and tenants has a disparate impact on
19 people and communities of color due to racial inequities in the
20 criminal legal system. These impacts are further compounded by racial
21 bias in the tenant application and selection process. The legislature

1 further finds that stable housing with appropriate supportive
2 services is a key factor in preventing homelessness and reducing
3 recidivism for individuals who were formerly incarcerated.

4 (3) Therefore, the legislature intends to address housing
5 discrimination against people impacted by the criminal legal system.
6 Restricting the use of a conviction history as a reason to deny
7 housing will reduce the harmful impacts that result in high rates of
8 homelessness and housing insecurity among formerly incarcerated
9 individuals.

10 NEW SECTION. **Sec. 2.** This act may be known and cited as the
11 housing justice act.

12 NEW SECTION. **Sec. 3.** A new section is added to chapter 59.18
13 RCW to read as follows:

14 (1) A landlord or any third-party entity may not:

15 (a) Advertise, publicize, or implement any policy or practice
16 that automatically or categorically excludes from any rental housing
17 all individuals with any arrest record or conviction record;

18 (b) Require disclosure, inquire about, or take an adverse action
19 against a prospective tenant, tenant, or member of the tenant's
20 household, based on any arrest record or conviction record, except as
21 provided in (c) of this subsection and subject to the exclusions and
22 legal requirements in subsection (7) of this section;

23 (c) Carry out an adverse action based on registry information of
24 a prospective tenant, tenant, or member of the tenant's household,
25 unless the landlord has a substantial, legitimate, nondiscriminatory
26 reason for taking such action.

27 (2)(a) If a landlord takes an adverse action based on a
28 substantial, legitimate, nondiscriminatory reason, the landlord must
29 provide written notice by email, mail, or in person of the adverse
30 action to the prospective tenant or tenant and state the specific
31 registry information that was the basis for the adverse action.

32 (b) If a tenant screening report or comprehensive reusable tenant
33 screening report is used by a landlord as part of the screening
34 process, the landlord must provide the name and address of the
35 consumer reporting agency and the prospective occupant's or tenant's
36 rights to obtain a free copy of the tenant screening report in the
37 event of a denial or other adverse action and to dispute the accuracy
38 of information appearing in the tenant screening report. The

1 prospective tenant or tenant must be provided at least five business
2 days from the time of notice to dispute the accuracy and relevance of
3 the tenant screening report.

4 (c) Any refusal of tenancy under this subsection must be
5 communicated to the tenant pursuant to RCW 59.18.257.

6 (3) Any violation of this section by a landlord occurs in the
7 course of trade or commerce as defined in the consumer protection
8 act, chapter 19.86 RCW and is, for the purpose of applying that
9 chapter, a matter affecting the public interest, is not reasonable in
10 relation to the development and preservation of business, and is an
11 unfair or deceptive act in trade or commerce.

12 (4) It is a defense to an unlawful detainer action under chapter
13 59.12 RCW that the action to remove the tenant and recover possession
14 of the premises is in violation of this section.

15 (5) This section does not prohibit adverse housing decisions
16 based upon other lawful factors within the landlord's knowledge.

17 (6) This section does not affect, modify, or limit the authority
18 of a local government to adopt any rule, regulation, code, or
19 ordinance to the extent that it is consistent with this section or
20 offers greater protection than this section to a prospective tenant,
21 tenant, or member of the tenant's household with respect to a
22 landlord or third-party entity's use of an arrest record, conviction
23 record, registry information, tenant screening report, or
24 comprehensive reusable tenant screening report. This section also
25 does not affect the authority of a local government to enforce,
26 maintain, or amend any local rule, regulation, code, or ordinance
27 enacted prior to January 1, 2022, related to a landlord or third-
28 party entity's use of an arrest record, conviction record, registry
29 information, tenant screening report, or comprehensive reusable
30 tenant screening report. This section supersedes and preempts any
31 local rule, regulation, code, or ordinance enacted on or after
32 January 1, 2022, to the extent that it offers less protection than
33 this section to a prospective tenant, tenant, or member of the
34 tenant's household with respect to a landlord or third-party entity's
35 use of an arrest record, conviction record, registry information,
36 tenant screening report, or comprehensive reusable tenant screening
37 report.

38 (7) This section does not apply to:

39 (a) The renting, subrenting, leasing, or subleasing of federally
40 assisted housing subject to federal regulations that require denial

1 of tenancy including, but not limited to, when any member of the
2 household is subject to a lifetime sex offender registration
3 requirement under a state sex offender registration program or
4 convicted of manufacture or production of methamphetamine on the
5 premises of federally assisted housing;

6 (b) The renting, subrenting, leasing, or subleasing of a single-
7 family dwelling unit in which the owner or subleasing tenant or
8 subrenting tenant occupy part of the single-family dwelling unit; or

9 (c) The renting, subrenting, leasing, or subleasing of an
10 accessory dwelling unit or attached accessory dwelling unit as
11 defined in RCW 36.70A.696.

12 (8) Nothing in this section supersedes or modifies requirements
13 provided in chapter 9A.44 RCW including, but not limited to, registry
14 or supervision requirements. Landlords are not responsible for
15 knowing and enforcing the registry requirements of their tenants or
16 prospective tenants.

17 (9) For purposes of this section:

18 (a) "Adverse action" means:

19 (i) Refusing to engage in or negotiate a rental real estate
20 transaction;

21 (ii) Denying tenancy;

22 (iii) Representing that real property listed for rent or lease is
23 not available for inspection, rental, or lease when in fact it is so
24 available;

25 (iv) Failing or refusing to add a household member to an existing
26 lease;

27 (v) Expelling or evicting an occupant from real property or
28 otherwise making unavailable or denying a dwelling;

29 (vi) Applying different terms, conditions, or privileges to a
30 rental agreement including, but not limited to, the setting of rates
31 for rental or lease, establishment of damage deposits, or other
32 financial conditions for rental or lease, or in the furnishing of
33 facilities or services in connection with such transaction;

34 (vii) Refusing or failing to list real property for rent or
35 lease;

36 (viii) Refusing or failing to show real property listed for rent
37 or lease;

38 (ix) Refusing or failing to accept or transmit any reasonable
39 offer to lease, or rent real property;

40 (x) Terminating a lease; or

1 (xi) Threatening, penalizing, retaliating, or otherwise
2 discriminating against any person for any reason prohibited under
3 this section.

4 (b) "Arrest record" includes, but is not limited to, information
5 indicating that a person has been questioned, apprehended, taken into
6 custody or detention, held for investigation, arrested, charged with,
7 indicted, or tried for any felony, misdemeanor, or other offense
8 pursuant to any law enforcement or military authority.

9 (c) "Conviction record" includes, but is not limited to,
10 information indicating that a person has been convicted of a felony,
11 misdemeanor, or other offense including a civil ordinance violation
12 (forfeiture), placed on probation, fined, imprisoned, or paroled
13 pursuant to any law enforcement or military authority.

14 (d) A "substantial, legitimate, nondiscriminatory reason" exists
15 when the policy or practice is necessary to achieve a substantial,
16 legitimate, and nondiscriminatory interest, which is determined by
17 the landlord by demonstrating, through reliable evidence, a nexus
18 between the policy or practice and resident safety or protecting the
19 property, or both, having considered all the following factors:

20 (i) The nature and severity of the conviction;

21 (ii) The number and types of convictions;

22 (iii) The time that has elapsed since the date of conviction;

23 (iv) The age of the individual at the time of offense, excluding
24 any convictions for offenses that occurred under the age of 25;

25 (v) Evidence of good tenant history before or after the
26 conviction occurred; and

27 (vi) Any supplemental information related to the individual's
28 rehabilitation, good conduct, and additional facts or explanations if
29 provided by the individual.

30 (e) "Registry information" means information solely obtained from
31 a county, statewide, or national sex offender registry including, but
32 not limited to, the registrant's physical description, address, and
33 conviction description and dates.

34 (f) "Supplemental information" means any information produced by
35 the prospective tenant or tenant, or produced on the tenant's behalf,
36 with respect to the tenant's rehabilitation or good conduct
37 including, but not limited to:

38 (i) Written or oral statement from the prospective tenant or
39 tenant;

1 (ii) Written or oral statement from a current or previous
2 employer;

3 (iii) Written or oral statement from a current or previous
4 landlord;

5 (iv) Written or oral statement from a member of the judiciary or
6 law enforcement, parole or probation officer, or person who provides
7 similar services;

8 (v) Written or oral statement from a member of the clergy,
9 counselor, therapist, social worker, community or volunteer
10 organization, or person or institution who provides similar services;

11 (vi) Certificate of rehabilitation;

12 (vii) Certificate of completion or enrollment in an educational
13 or vocational training program, including apprenticeship programs; or

14 (viii) Certificate of completion or enrollment in a drug or
15 alcohol treatment program or in a rehabilitation program.

16 **Sec. 4.** RCW 59.18.030 and 2021 c 212 s 1 are each reenacted and
17 amended to read as follows:

18 As used in this chapter:

19 (1) "Active duty" means service authorized by the president of
20 the United States, the secretary of defense, or the governor for a
21 period of more than 30 consecutive days.

22 (2) "Certificate of inspection" means an unsworn statement,
23 declaration, verification, or certificate made in accordance with the
24 requirements of chapter 5.50 RCW by a qualified inspector that states
25 that the landlord has not failed to fulfill any substantial
26 obligation imposed under RCW 59.18.060 that endangers or impairs the
27 health or safety of a tenant, including (a) structural members that
28 are of insufficient size or strength to carry imposed loads with
29 safety, (b) exposure of the occupants to the weather, (c) plumbing
30 and sanitation defects that directly expose the occupants to the risk
31 of illness or injury, (d) not providing facilities adequate to supply
32 heat and water and hot water as reasonably required by the tenant,
33 (e) providing heating or ventilation systems that are not functional
34 or are hazardous, (f) defective, hazardous, or missing electrical
35 wiring or electrical service, (g) defective or hazardous exits that
36 increase the risk of injury to occupants, and (h) conditions that
37 increase the risk of fire.

38 (3) "Commercially reasonable manner," with respect to a sale of a
39 deceased tenant's personal property, means a sale where every aspect

1 of the sale, including the method, manner, time, place, and other
2 terms, must be commercially reasonable. If commercially reasonable, a
3 landlord may sell the tenant's property by public or private
4 proceedings, by one or more contracts, as a unit or in parcels, and
5 at any time and place and on any terms.

6 (4) "Comprehensive reusable tenant screening report" means a
7 tenant screening report prepared by a consumer reporting agency at
8 the direction of and paid for by the prospective tenant and made
9 available directly to a prospective landlord at no charge, which
10 contains all of the following: (a) A consumer credit report prepared
11 by a consumer reporting agency within the past 30 days; (b) except as
12 limited in section 3 of this act, the prospective tenant's criminal
13 history; (c) the prospective tenant's eviction history; (d) an
14 employment verification; and (e) the prospective tenant's address and
15 rental history.

16 (5) "Criminal history" means a report containing or summarizing
17 (a) the prospective tenant's criminal convictions and pending cases,
18 the final disposition of which antedates the report by no more than
19 seven years, and (b) the results of a sex offender registry and
20 United States department of the treasury's office of foreign assets
21 control search, all based on at least seven years of address history
22 and alias information provided by the prospective tenant or available
23 in the consumer credit report.

24 (6) "Designated person" means a person designated by the tenant
25 under RCW 59.18.590.

26 (7) "Distressed home" has the same meaning as in RCW 61.34.020.

27 (8) "Distressed home conveyance" has the same meaning as in RCW
28 61.34.020.

29 (9) "Distressed home purchaser" has the same meaning as in RCW
30 61.34.020.

31 (10) "Dwelling unit" is a structure or that part of a structure
32 which is used as a home, residence, or sleeping place by one person
33 or by two or more persons maintaining a common household, including
34 but not limited to single-family residences and units of multiplexes,
35 apartment buildings, and mobile homes.

36 (11) "Eviction history" means a report containing or summarizing
37 the contents of any records of unlawful detainer actions concerning
38 the prospective tenant that are reportable in accordance with state
39 law, are lawful for landlords to consider, and are obtained after a
40 search based on at least seven years of address history and alias

1 information provided by the prospective tenant or available in the
2 consumer credit report.

3 (12) "Gang" means a group that: (a) Consists of three or more
4 persons; (b) has identifiable leadership or an identifiable name,
5 sign, or symbol; and (c) on an ongoing basis, regularly conspires and
6 acts in concert mainly for criminal purposes.

7 (13) "Gang-related activity" means any activity that occurs
8 within the gang or advances a gang purpose.

9 (14) "Immediate family" includes state registered domestic
10 partner, spouse, parents, grandparents, children, including foster
11 children, siblings, and in-laws.

12 (15) "In danger of foreclosure" means any of the following:

13 (a) The homeowner has defaulted on the mortgage and, under the
14 terms of the mortgage, the mortgagee has the right to accelerate full
15 payment of the mortgage and repossess, sell, or cause to be sold the
16 property;

17 (b) The homeowner is at least 30 days delinquent on any loan that
18 is secured by the property; or

19 (c) The homeowner has a good faith belief that he or she is
20 likely to default on the mortgage within the upcoming four months due
21 to a lack of funds, and the homeowner has reported this belief to:

22 (i) The mortgagee;

23 (ii) A person licensed or required to be licensed under chapter
24 19.134 RCW;

25 (iii) A person licensed or required to be licensed under chapter
26 19.146 RCW;

27 (iv) A person licensed or required to be licensed under chapter
28 18.85 RCW;

29 (v) An attorney-at-law;

30 (vi) A mortgage counselor or other credit counselor licensed or
31 certified by any federal, state, or local agency; or

32 (vii) Any other party to a distressed property conveyance.

33 (16) "Landlord" means the owner, lessor, or sublessor of the
34 dwelling unit or the property of which it is a part, and in addition
35 means any person designated as representative of the owner, lessor,
36 or sublessor including, but not limited to, an agent, a resident
37 manager, or a designated property manager.

38 (17) "Mortgage" is used in the general sense and includes all
39 instruments, including deeds of trust, that are used to secure an
40 obligation by an interest in real property.

1 (18) "Orders" means written official military orders, or any
2 written notification, certification, or verification from the service
3 member's commanding officer, with respect to the service member's
4 current or future military status.

5 (19) "Owner" means one or more persons, jointly or severally, in
6 whom is vested:

7 (a) All or any part of the legal title to property; or

8 (b) All or part of the beneficial ownership, and a right to
9 present use and enjoyment of the property.

10 (20) "Permanent change of station" means: (a) Transfer to a unit
11 located at another port or duty station; (b) change in a unit's home
12 port or permanent duty station; (c) call to active duty for a period
13 not less than 90 days; (d) separation; or (e) retirement.

14 (21) "Person" means an individual, group of individuals,
15 corporation, government, or governmental agency, business trust,
16 estate, trust, partnership, or association, two or more persons
17 having a joint or common interest, or any other legal or commercial
18 entity.

19 (22) "Premises" means a dwelling unit, appurtenances thereto,
20 grounds, and facilities held out for the use of tenants generally and
21 any other area or facility which is held out for use by the tenant.

22 (23) "Property" or "rental property" means all dwelling units on
23 a contiguous quantity of land managed by the same landlord as a
24 single, rental complex.

25 (24) "Prospective landlord" means a landlord or a person who
26 advertises, solicits, offers, or otherwise holds a dwelling unit out
27 as available for rent.

28 (25) "Prospective tenant" means a tenant or a person who has
29 applied for residential housing that is governed under this chapter.

30 (26) "Qualified inspector" means a United States department of
31 housing and urban development certified inspector; a Washington state
32 licensed home inspector; an American society of home inspectors
33 certified inspector; a private inspector certified by the national
34 association of housing and redevelopment officials, the American
35 association of code enforcement, or other comparable professional
36 association as approved by the local municipality; a municipal code
37 enforcement officer; a Washington licensed structural engineer; or a
38 Washington licensed architect.

39 (27) "Reasonable attorneys' fees," where authorized in this
40 chapter, means an amount to be determined including the following

1 factors: The time and labor required, the novelty and difficulty of
2 the questions involved, the skill requisite to perform the legal
3 service properly, the fee customarily charged in the locality for
4 similar legal services, the amount involved and the results obtained,
5 and the experience, reputation and ability of the lawyer or lawyers
6 performing the services.

7 (28) "Reasonable manner," with respect to disposing of a deceased
8 tenant's personal property, means to dispose of the property by
9 donation to a not-for-profit charitable organization, by removal of
10 the property by a trash hauler or recycler, or by any other method
11 that is reasonable under the circumstances.

12 (29) "Rent" or "rental amount" means recurring and periodic
13 charges identified in the rental agreement for the use and occupancy
14 of the premises, which may include charges for utilities. Except as
15 provided in RCW 59.18.283(3), these terms do not include nonrecurring
16 charges for costs incurred due to late payment, damages, deposits,
17 legal costs, or other fees, including attorneys' fees.

18 (30) "Rental agreement" or "lease" means all agreements which
19 establish or modify the terms, conditions, rules, regulations, or any
20 other provisions concerning the use and occupancy of a dwelling unit.

21 (31) "Service member" means an active member of the United States
22 armed forces, a member of a military reserve component, or a member
23 of the national guard who is either stationed in or a resident of
24 Washington state.

25 (32) A "single-family residence" is a structure maintained and
26 used as a single dwelling unit. Notwithstanding that a dwelling unit
27 shares one or more walls with another dwelling unit, it shall be
28 deemed a single-family residence if it has direct access to a street
29 and shares neither heating facilities nor hot water equipment, nor
30 any other essential facility or service, with any other dwelling
31 unit.

32 (33) "Subsidized housing" refers to rental housing for very low-
33 income or low-income households that is a dwelling unit operated
34 directly by a public housing authority or its affiliate, or that is
35 insured, financed, or assisted in whole or in part through one of the
36 following sources:

37 (a) A federal program or state housing program administered by
38 the department of commerce or the Washington state housing finance
39 commission;

1 (b) A federal housing program administered by a city or county
2 government;

3 (c) An affordable housing levy authorized under RCW 84.52.105; or

4 (d) The surcharges authorized in RCW 36.22.178 and 36.22.179 and
5 any of the surcharges authorized in chapter 43.185C RCW.

6 (34) A "tenant" is any person who is entitled to occupy a
7 dwelling unit primarily for living or dwelling purposes under a
8 rental agreement.

9 (35) "Tenant representative" means:

10 (a) A personal representative of a deceased tenant's estate if
11 known to the landlord;

12 (b) If the landlord has no knowledge that a personal
13 representative has been appointed for the deceased tenant's estate, a
14 person claiming to be a successor of the deceased tenant who has
15 provided the landlord with proof of death and an affidavit made by
16 the person that meets the requirements of RCW 11.62.010(2);

17 (c) In the absence of a personal representative under (a) of this
18 subsection or a person claiming to be a successor under (b) of this
19 subsection, a designated person; or

20 (d) In the absence of a personal representative under (a) of this
21 subsection, a person claiming to be a successor under (b) of this
22 subsection, or a designated person under (c) of this subsection, any
23 person who provides the landlord with reasonable evidence that he or
24 she is a successor of the deceased tenant as defined in RCW
25 11.62.005. The landlord has no obligation to identify all of the
26 deceased tenant's successors.

27 (36) "Tenant screening" means using a consumer report or other
28 information about a prospective tenant in deciding whether to make or
29 accept an offer for residential rental property to or from a
30 prospective tenant.

31 (37) "Tenant screening report" means a consumer report as defined
32 in RCW 19.182.010 and any other information collected by a tenant
33 screening service.

34 (38) "Transitional housing" means housing units owned, operated,
35 or managed by a nonprofit organization or governmental entity in
36 which supportive services are provided to individuals and families
37 that were formerly homeless, with the intent to stabilize them and
38 move them to permanent housing within a period of not more than
39 twenty-four months, or longer if the program is limited to tenants
40 within a specified age range or the program is intended for tenants

1 in need of time to complete and transition from educational or
2 training or service programs.

3 **Sec. 5.** RCW 59.18.257 and 2016 c 66 s 2 are each amended to read
4 as follows:

5 (1)(a) Prior to obtaining any information about a prospective
6 tenant, the prospective landlord shall first notify the prospective
7 tenant in writing, or by posting, of the following:

8 (i) What types of information will be accessed to conduct the
9 tenant screening;

10 (ii) What criteria may result in denial of the application;

11 (iii) If a consumer report is used, the name and address of the
12 consumer reporting agency and the prospective tenant's rights to
13 obtain a free copy of the consumer report in the event of a denial or
14 other adverse action, and to dispute the accuracy of information
15 appearing in the consumer report; and

16 (iv) Whether or not the landlord will accept a comprehensive
17 reusable tenant screening report made available to the landlord by a
18 consumer reporting agency. If the landlord indicates its willingness
19 to accept a comprehensive reusable tenant screening report, the
20 landlord may access the landlord's own tenant screening report
21 regarding a prospective tenant as long as the prospective tenant is
22 not charged for the landlord's own tenant screening report.

23 (b)(i) The landlord may charge a prospective tenant for costs
24 incurred in obtaining a tenant screening report only if the
25 prospective landlord provides the information as required in (a) of
26 this subsection.

27 (ii) If a prospective landlord conducts his or her own screening
28 of tenants, the prospective landlord may charge his or her actual
29 costs in obtaining the background information only if the prospective
30 landlord provides the information as required in (a) of this
31 subsection. The amount charged may not exceed the customary costs
32 charged by a screening service in the general area. The prospective
33 landlord's actual costs include costs incurred for long distance
34 phone calls and for time spent calling landlords, employers, and
35 financial institutions.

36 (c) If a prospective landlord takes an adverse action, the
37 prospective landlord shall provide a written notice of the adverse
38 action to the prospective tenant that states the reasons for the
39 adverse action. The adverse action notice must contain the following

1 information in a substantially similar format, including additional
2 information as may be required under chapter 19.182 RCW:

3 "ADVERSE ACTION NOTICE

4 Name

5 Address

6 City/State/Zip Code

7 This notice is to inform you that your application has been:

8 Rejected

9 Approved with conditions:

10 Residency requires an increased deposit

11 Residency requires a qualified guarantor

12 Residency requires last month's rent

13 Residency requires an increased monthly rent of \$.....

14 Other:

15 Adverse action on your application was based on the following:

16 Information contained in a consumer report (The prospective
17 landlord must include the name, address, and phone number of the
18 consumer reporting agency that furnished the consumer report that
19 contributed to the adverse action.)

20 The consumer credit report did not contain sufficient
21 information

22 Information received from previous rental history or reference

23 Information received in a criminal history record that relates
24 to a substantial, legitimate, nondiscriminatory reason as described
25 in section 3 of this act

26 Information received in a civil record

27 Information received from an employment verification

28 Dated this day of,(year)

29 Agent/Owner Signature"

30 (2) Any landlord who maintains a website advertising the rental
31 of a dwelling unit or as a source of information for current or
32 prospective tenants must include a statement on the property's home
33 page stating whether or not the landlord will accept a comprehensive
34 reusable tenant screening report made available to the landlord by a
35 consumer reporting agency. If the landlord indicates its willingness
36 to accept a comprehensive reusable tenant screening report, the
37 landlord may access the landlord's own tenant screening report

1 regarding a prospective tenant as long as the prospective tenant is
2 not charged for the landlord's own tenant screening report.

3 (3) Any landlord or prospective landlord who violates subsection
4 (1) of this section may be liable to the prospective tenant for an
5 amount not to exceed one hundred dollars. The prevailing party may
6 also recover court costs and reasonable attorneys' fees.

7 (4) This section does not limit a prospective tenant's rights or
8 the duties of a screening service as otherwise provided in chapter
9 19.182 RCW.

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